

Update: Traffic Benchbook— Third Edition, Volume 2

CHAPTER 6

Marine Vessels and Personal Watercraft (PWC)

Part A—An Overview of the Marine Safety Act

6.7 Local Ordinances That Regulate Marine Safety

Effective June 26, 2006, 2006 PA 237 amended MCL 324.80110, 324.80111, and 324.80112 to clarify the procedures for enacting special rules and local ordinances that deal with the operation of vessels. Replace the quote of MCL 324.80110 starting at the bottom of page 273 and continuing at the top of page 274 with the following text:

“(1) The [DNR] may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state to assure compatibility of uses and to protect public safety. If the [DNR] receives a resolution pursuant to [MCL 324.80112], the [DNR] shall initiate an investigation and inquiry under this subsection.

“(2) The [DNR’s] investigation and inquiry under subsection (1) into whether special rules are needed on a particular water body shall include a consideration of all of the following:

“(a) Whether the activities subject to the proposed special rules pose any issues of safety to life or property.

“(b) The profile of the water body, including local jurisdiction, size, geographic location, and amount of vessel traffic.

“(c) The current and historical depth of the water body, including whether there is an established lake level for the water body.

“(d) Whether any identifiable special problems or conditions exist on the water body for the activities subject to the proposed special rules, such as rocks, pier heads, swimming areas, public access sites, shallow waters, and submerged obstacles.

“(e) Whether the proposed special rules would unreasonably interfere with normal navigational traffic.

“(f) Whether user conflicts exist on the water body.

“(g) Complaints received by local law enforcement agencies regarding activities on the water body.

“(h) The status of any accidents that have occurred on the water body.

“(i) Historical uses of the water body and potential future uses of the water body.

“(j) Whether the water body is public or private.

“(k) Whether existing law adequately regulates the activities subject to the proposed special rules.

“(3) Following completion of the [DNR’s] investigation and inquiry, the [DNR] shall prepare a preliminary report that includes the [DNR’s] evaluation of the items listed in subsection (2) and the [DNR’s] preliminary recommendation as to whether special rules are needed for the water body.

“(4) Upon preparation of the preliminary report, the [DNR] shall provide a copy of the preliminary report to the local political subdivision that has waters subject to its jurisdiction for which the proposed special rules are being considered and shall schedule a public hearing in the vicinity of the water body to gather public input on the preliminary report and the need for special rules. Notice of the public hearing shall be made in a newspaper of general circulation in the area where the water body is located, not less than 10 calendar days before the hearing. At the public hearing, interested persons shall be afforded an opportunity to present their views on the preliminary report and the need for special rules, either orally or in writing.

“(5) Within 90 days following the public hearing under subsection (4), if the [DNR] determines that there is a need for special rules for the water body, the [DNR] shall propose a local ordinance or appropriate changes to a local ordinance. If the [DNR] determines that there is not a need for special rules,

the [DNR] shall notify the political subdivision that has waters subject to its jurisdiction and shall provide the specific reasons for its determination.

“(6) A determination by the [DNR] that there is not a need for special rules for a water body may be appealed to the commission by the political subdivision that has waters subject to its jurisdiction. The commission shall make the final agency decision on the need for special rules for a water body.

“(7) As used in this section, ‘water body’ includes all or a portion of a water body.” MCL 324.80110(1)–(7).

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“A local ordinance proposed pursuant to [MCL 324.80110] shall be submitted to the governing body of the political subdivision in which the water body subject to the proposed special rules is located. Within 60 calendar days, the governing body shall inform the [DNR] that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the [DNR] shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in all respects to the local ordinance proposed by the [DNR]. After the local ordinance is enacted, the local ordinance shall be enforced as provided for in [MCL 324.80113].” MCL 324.80111.

Effective June 26, 2006, 2006 PA 237 amended MCL 324.80110, 324.80111, and 324.80112 to clarify the procedures for enacting special rules and local ordinances that deal with the operation of vessels. Replace the quote of MCL 324.80112 on page 274 with the following text:

“Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the [DNR] and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision following a public hearing on the resolution. Upon receipt of a resolution under this section, the [DNR] shall proceed as required by [MCL 324.80110 and MCL 324.80111].” MCL 324.80112.